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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/647,699   | 08/25/2003  | Carolyn L. Slone     | US20020139-1        | 2468             |
| 173  | 7590        | 06/23/2004           | EXAMINER            |                  |
| WHIRLPOOL PATENTS COMPANY - MD 0750<br>500 RENAISSANCE DRIVE - SUITE 102<br>ST. JOSEPH, MI 49085 |             |                      | TAPOLCAI, WILLIAM E |                  |
|  |             | ART UNIT             | PAPER NUMBER        |                  |
|  |             |                      | 3744                |                  |

DATE MAILED: 06/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                     |              |
|------------------------------|---------------------|--------------|
| <b>Office Action Summary</b> | Application No.     | Applicant(s) |
|                              | 10/647,699          | SLONE ET AL. |
|                              | Examiner            | Art Unit     |
|                              | William E. Tapolcai | 3744         |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1)  Responsive to communication(s) filed on 04 June 2004.
- 2a)  This action is FINAL. 2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4)  Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) 15-20, 22 and 23 is/are allowed.
- 6)  Claim(s) 1-4, 6, 8-11, 14, 21, 24 and 28 is/are rejected.
- 7)  Claim(s) 5, 7, 12, 13 and 25-27 is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a)  All b)  Some \* c)  None of:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_.

Art Unit: 3744

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-4, 6, 8-11, 14, 21, 24, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foye in view of Adkins, newly cited. Foye discloses the claimed invention except for the container support configured to support beverage containers having different vertical heights and different cross-sectional area sizes. Adkins teaches a beverage holder comprising a support 30-34 configured to support beverages having different vertical heights and different cross-sectional area sizes. See column 3, lines 10-27. Thus, it would be obvious to provide Foye with a container support configured to support beverage containers having different vertical heights and different cross-sectional area sizes, in view of Adkins, for the purpose of providing increased versatility for the beverage container holder.
3. Claim, 7, 12, 13, and 25-27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
4. Claims 15-20, 22, and 23 are allowed.
5. Applicant's arguments with respect to claims 1-4, 6, 8-11, 14, 21, 24, and 28 have been considered but are moot in view of the new ground of rejection.
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William E. Tapolcai whose telephone number is (703) 308-2640. The examiner can normally be reached on Mon. - Thurs., 6:30 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise L. Esquivel can be reached on (703) 308-2597. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
William E. Tapolcai  
Primary Examiner  
Art Unit 3744

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June 17, 2004